

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF WILLIS GRAYSON, § No. 357, 2010
JR. FOR A WRIT OF MANDAMUS §
OR CERTIORARI §

Submitted: July 29, 2010
Decided: September 21, 2010

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 21st day of September 2010, upon consideration of the petition of Willis Grayson for an extraordinary writ of mandamus or certiorari, it appears to the Court that:

(1) The petitioner, Willis Grayson, seeks to invoke the original jurisdiction of this Court to issue a writ of mandamus or certiorari¹ to compel the Superior Court to provide him with copies of the transcripts of his first trial, which resulted in a mistrial, and the trial court's written decision granting the mistrial. Grayson also requests that the Superior Court be compelled to hold an evidentiary hearing and appoint him counsel. The State of Delaware has filed a response and motion to dismiss Grayson's petition. We find that Grayson's petition manifestly

¹ Given the nature of the relief sought in Grayson's petition, the Court will treat his petition as a request for a writ of mandamus. A writ of certiorari is an extraordinary remedy that is used to correct irregularities in the proceedings of a trial court. *In re Butler*, 609 A.2d 1080, 1081 (Del. 1992). Certiorari is not an appropriate remedy to compel a trial court to provide a petitioner with transcripts. *See id.*

fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) This Court has authority to issue a writ of mandamus only when the petitioner can demonstrate a clear right to the performance of a duty, no other adequate remedy is available, and the trial court arbitrarily failed or refused to perform its duty.² In this case, Grayson clearly has an adequate remedy available to him in the postconviction process. He may request from the Superior Court the transcripts that he seeks in conjunction with the filing of a motion for postconviction relief under Superior Court Criminal Rule 61. He also may request the appointment of counsel and a hearing on his postconviction motion. If Grayson is unsuccessful on the merits of his postconviction motion, then he may appeal to this Court from the Superior Court's final order denying relief, which will bring up any interlocutory rulings for review, as well.³

NOW, THEREFORE, IT IS ORDERED that Grayson's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³ *Middlebrook v. State*, 2000 WL 975060 (Del. May 30, 2000).